

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of the Commission's	)	GEN Docket No. 90-314
Rules to Establish New Personal	)	
Communications Services	)	RM-7140, RM-7175, RM 7618

To: The Commission

**REPLY TO COMMENTS ON**  
**PETITIONS FOR RECONSIDERATION OR CLARIFICATION**

UTAM, Inc., by its attorneys, hereby submits its reply to comments on petitions for reconsideration or clarification of the Commission's Second Report and Order in the above-captioned proceeding.<sup>1</sup> In its own petition, UTAM sought clarification of the rules regarding the location verification requirements for coordinatable devices as well as its responsibilities as the conditionally-designated frequency coordinator for unlicensed spectrum.<sup>2</sup> As shown below, grant of UTAM's petition will both facilitate the deployment of unlicensed PCS systems and devices in the public interest and continue to ensure that incumbent microwave licensees will be protected from harmful interference.

<sup>1</sup> Second Report and Order, GEN Docket No. 90-314 (September 23, 1993) ("Second Report and Order").

<sup>2</sup> UTAM Petition for Clarification or Reconsideration, GEN Docket No. 90-314, at 4-6 (filed on December 8, 1993).

CF 4

**I. THE LOCATION VERIFICATION REQUIREMENTS  
PROPOSED BY UTAM WILL PROTECT AGAINST  
HARMFUL INTERFERENCE TO MICROWAVE SYSTEMS**

UTAM requested the Commission to clarify, consistent with the Second Report and Order, that Section 15.307(d) of the Rules permits use of "procedures" or other effective means to verify the installation location of a coordinated system or device.<sup>3</sup> Only the Utilities Telecommunications Council ("UTC") opposed the requested clarification.<sup>4</sup> However, UTC's concerns appear to be based largely upon a misperception of UTAM's request.

Initially, UTC appears principally concerned that coordinated systems and devices might be relocated without recoordination. But, Section 15.307(e) of the Rules currently requires the incorporation in a system or device of an automatic disabling mechanism that would be triggered upon relocation.<sup>5</sup> Neither UTAM nor any other party has sought reconsideration of that express requirement, which fully addresses UTC's relocation concerns.

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<sup>3</sup> UTAM Petition at 4-6.

<sup>4</sup> UTC Comments, GEN Docket No. 90-314 at 11-13 (filed Jan. 3, 1994). Apple Computer also questioned whether the Commission has yet indicated whether or not it agrees with UTAM's interpretation of the rules and, therefore, supports a clarification of UTAM's responsibilities. Apple Comments, GEN Docket No. 90-314 at 6-7 (filed on Jan. 3, 1994).

<sup>5</sup> 47 C.F.R. § 15.307(e).

UTC also has overlooked the fact that users of unlicensed devices are held accountable for interference created by coordinated systems and devices.<sup>6</sup> As is the case in coordinated spectrum generally, the owner/operator of an interfering system or device will be under an obligation, enforceable by the Commission, to cure any unlawful interference or to cease operating. Because prior to full band clearing all unlicensed PCS systems and devices will be subject to coordination by UTAM, which is a prerequisite to initial installation -- and any attempt at subsequent relocation would be subject to automatic disabling under the relocation rule discussed above -- this equipment and its owners/operators will be readily accessible to the agency.

In any event, UTAM expects to describe its proposed coordination process in detail in its plan, which is to be filed with the FCC and subjected to public comment. At that time, UTC and other interested parties can raise any specific concerns they might have. Moreover, as urged by all commenters, the Commission should pass upon the adequacy of any proposed installation location verification procedures or mechanisms as part of the equipment authorization process.<sup>7</sup> Thus, the interests of incumbent microwave systems in avoiding harmful interference to their operations can be

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<sup>6</sup> See UTC Comments at 11-13.

<sup>7</sup> See AAR Comments at 7; UTC Comments at 9-10.

fully protected under UTAM's proposed clarification without creating unreasonable restraints on innovation in equipment design or user applications for unlicensed PCS systems and devices.

**II. THE COMMISSION SHOULD ADDRESS THE CONFUSION  
SURROUNDING UTAM'S COORDINATION ROLE**

In its Response to Petitions for Reconsideration, UTAM acknowledged some uncertainty concerning UTC's suggestions regarding its responsibility "for verifying PCS equipment installations and relocations."<sup>8</sup> In their comments, both the Association of American Railroads and Apple likewise appear to suggest holding UTAM to some unspecified higher degree of responsibility for fulfilling its coordination obligations than is currently the case for other frequency coordinators.<sup>9</sup> To the extent these suggestions can be traced to the general misperception concerning the Commission's ability to enforce its rules against unlicensed PCS equipment owners and operators as well as manufacturers, as would appear to be the case with AAR,<sup>10</sup> UTAM trusts that the concerns that prompted the suggestions can now be laid to rest.

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<sup>8</sup> UTAM Response at 6 (footnote omitted) (filed Dec. 30, 1993).

<sup>9</sup> AAR Comments at 7-8; Apple Comments at 6-7.

<sup>10</sup> Cf. AAR Comments at 8.

Indeed, existing Commission Rules are proving to be adequate in circumstances strikingly similar to those that will be faced by UTAM and the early deployment of coordinatable unlicensed PCS devices. In the 902-928 MHz band, for example, Part 15 spread spectrum devices are authorized to operate with power levels up to one watt without any coordination requirements with the licensed private land mobile systems.<sup>11</sup> If interference is received by a co-channel licensed facility, the FCC is notified and the offending Part 15 device is required to terminate operations. To the best of UTAM's knowledge, this environment has not been proven to be ineffective in protecting against interference to licensed stations. In the 2 GHz band, UTAM will offer the additional benefit of coordination with fixed microwave systems and the devices will operate at lower powers. Accordingly, there is no reason to place additional responsibilities on UTAM beyond its coordination functions under the rules and as detailed in the plan to be approved by the Commission.

### III. CONCLUSION

For the foregoing reasons, UTAM urges the Commission to clarify Section 15.307(d) as requested in order to secure its

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<sup>11</sup> See 47 C.F.R. § 15.247(b) and 47 C.F.R. § 90.239(c)(2).

goal of promoting the greatest number and variety of potential uses of the unlicensed spectrum consistent with the protection of incumbent services from harmful interference. For similar reasons, UTAM's coordination responsibilities under the rules and the plan should be carefully defined in order to facilitate faithful adherence to all such requirements.

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January 13, 1994

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